

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERIC WARBELTON, and JOSE  
SILVA,

Plaintiffs,

V.

ROBERT HOUSTON, et al..

Defendants.

8:09CV132

# MEMORANDUM AND ORDER

This matter is before the court on Defendants’ Motion to File Out of Time (filing no. [39](#)) and Motion to Extend Summary Judgment Deadline (filing no. [38](#)). In the Motion to File Out of Time, Defendants’ counsel states that “the due date for dispositive motions was inadvertently left off of [her] calendar.” (Filing No. [39](#).) Defendants request additional time in which to file a motion for summary judgment. Defendants filed their Motion for Summary Judgment on June 1, 2010. (Filing No. [40](#).) The court will permit the extension of time. However, Defendants’ counsel is warned that she should take the court’s deadlines seriously and avoid such mistakes in the future.

IT IS THEREFORE ORDERED that:

1. Defendants' Motion to File Out of Time (filing no. [39](#)) is granted. The Motion for Summary Judgment (filing no. [40](#)) is deemed timely filed. On the court's own motion, Plaintiffs shall have until July 1, 2010, in which to file a response to the Motion for Summary Judgment.
2. Defendants' Motion to Extend Summary Judgment Deadline (filing no. [38](#)) is denied as moot.

3. The Final Pretrial Conference, scheduled for July 20, 2010, at 10:00 a.m., is cancelled. If necessary, the court will set a new date for the Final Pretrial Conference after resolving the pending Motion for Summary Judgment.

4. The Clerk of the court is directed to send a copy of this Memorandum and Order to Magistrate Judge Zwart.

DATED this 7<sup>th</sup> day of June, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge